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## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2013-0097

**Z.A.P. DATE:** September 3, 2013  
October 1, 2013

**ADDRESS:** 11300 Spicewood Parkway

**OWNER/APPLICANT:** Balcones Country Club Membership Association (David Dew)

**AGENT:** Hutson Land Planners (Duane Hutson)

**ZONING FROM:** RR

**TO:** SF-1

**AREA:** 0.9868 acres (42,985 sq. ft.)

### SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant SF-1, Single Family-Large Lot District, zoning.

### ZONING AND PLATTING COMMISSION RECOMMENDATION:

9/03/13: Postponed to October 1, 2013 at the neighborhood's request (7-0); P. Seeger-1<sup>st</sup>,  
R. McDaniel-2<sup>nd</sup>.

### ISSUES:

On August 22, 2013, members of the neighborhood sent a Warranty Deed document to the staff for our review (Please see Attachment A). The City's Law Department looked at the information and determined that the restrictions set forth in the warranty deed are effectively a restrictive covenant. They stated that the right of enforcement against breach of this restriction was vested in Northwest Travis County MUD No. 2, its successors and assigns. The Northwest Travis County MUD No. 2 was annexed by the City of Austin and was dissolved. Therefore, the City would have the right to enforce this restriction. The Law Department also stated that the City is under no obligation to enforce this document. The zoning staff discussed our recommendation for this case again after becoming aware of the warranty deed. The staff decided to maintain our recommendation for SF-1 zoning at this location as the site meets the intent of the Single Family Residence-Large Lot District designation and is consistent with other development and zoning surrounding this tract of land. The applicant is requesting a zoning change from one residential district, RR, to another, SF-1 within an existing single family residential neighborhood. The current RR, Rural Residence District, zoning does not permit a golf course (Outdoor Sports and Recreation) use.

The staff received a petition on August 29, 2013 from adjacent property owners who are opposed to any changes to the existing RR zoning on the site (Please see Attachment B-Petition). This petition is valid at 36.86 % and therefore will require an affirmative vote of three-fourths of the members of Council to approve a proposed rezoning.

The excerpt below is from the City of Austin's Land Development Code and explains when the City Council is subject to the three-fourths vote.

#### *Sec. 25-2-284 REQUIREMENT FOR APPROVAL BY THREE-FOURTHS OF COUNCIL.*

- (A) *The affirmative vote of three-fourths of the members of Council is required to approve a proposed rezoning if:*

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- (1) the Land Use Commission recommends denial of an application to rezone property to a planned unit development; or
- (2) the proposed rezoning is protested in writing by the owners of not less than 20 percent of the area of land:
  - (a) included in the proposed change; or
  - (b) immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.

**DEPARTMENT COMMENTS:**

The property in question is currently an undeveloped parcel of land. The applicant is requesting a rezoning from RR to SF-1 to construct a single family residence on the property. The staff recommends the applicant's request for SF-1 zoning because the property fronts meets the intent of the SF-1 district and fronts onto a residential collector street, Spicewood Parkway. The site is located adjacent to existing SF-1 zoning and single family residential uses to the north, south and east.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
Site	RR	Undeveloped
North	SF-1	Single-Family Residence
South	SF-1	Single-Family Residence
East	SF-1	Single-Family Residence
West	RR	Golf Course

**AREA STUDY:** N/A

**TIA:** Not Required

**WATERSHED:** Bull Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Heritage Tree Foundation  
Austin Monorail Project  
Balcones Village-Spicewood Home Owners Association  
Bike Austin  
Bull Creek Foundation  
Homeless Neighborhood Association  
Long Canyon Homeowners Association  
Long Canyon Phase II & III Homeowner Association Inc.  
SELTEXAS  
Sierra Club, Austin Regional Group  
Spicewood Springs Road Tunnel Coalition  
Super Duper Neighborhood Objectors and Appealers Organization  
The Real Estate Council of Austin, Inc.

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**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-05-0179 (Spring Lake Subdivision: 9009 Spring Lake Drive)	RR to SF-1	11/15/05: Approved SF-1-CO zoning limited to two residential units (7-0, J. Gohil, J. Martinez- absent); M. Hawthorne-1 <sup>st</sup> , T. Rabago-2 <sup>nd</sup> .	8/24/06: Approved SF-1-CO zoning with the changes and direction to staff (7-0); Council Member Kim-1st, Mayor Pro Tem Dunkerley-2nd. The changes were: limit the buildings on the property to a single residence, provide a 50-foot setback from the wetland area, reduce the size of the original zoning request to 0.36 acres, limit the impervious cover on the property to 2,500 square feet, limit the building coverage to 1500 square feet, allow for only one tree to be removed, and require a pier and beam construction instead of a slab on grade.  12/14/06: Approved SF-1-CO with conditions (6-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-98-0011 (Hidden Forest: 9907 Anderson Mill Road)	DR to SF-1	3/03/98: Approved SF-1 on consent (7-0)	3/26/98: Approved PC re. of SF-1 (6-0); all 3 readings

**RELATED CASES:** C7L-98-007 (Annexation – December 21, 1998)

**ABUTTING STREETS:**

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Spicewood Parkway	60	35	Collector	No	No	No

**CITY COUNCIL DATE:** September 26, 2013

**ACTION:**

**ORDINANCE READINGS:** 1st

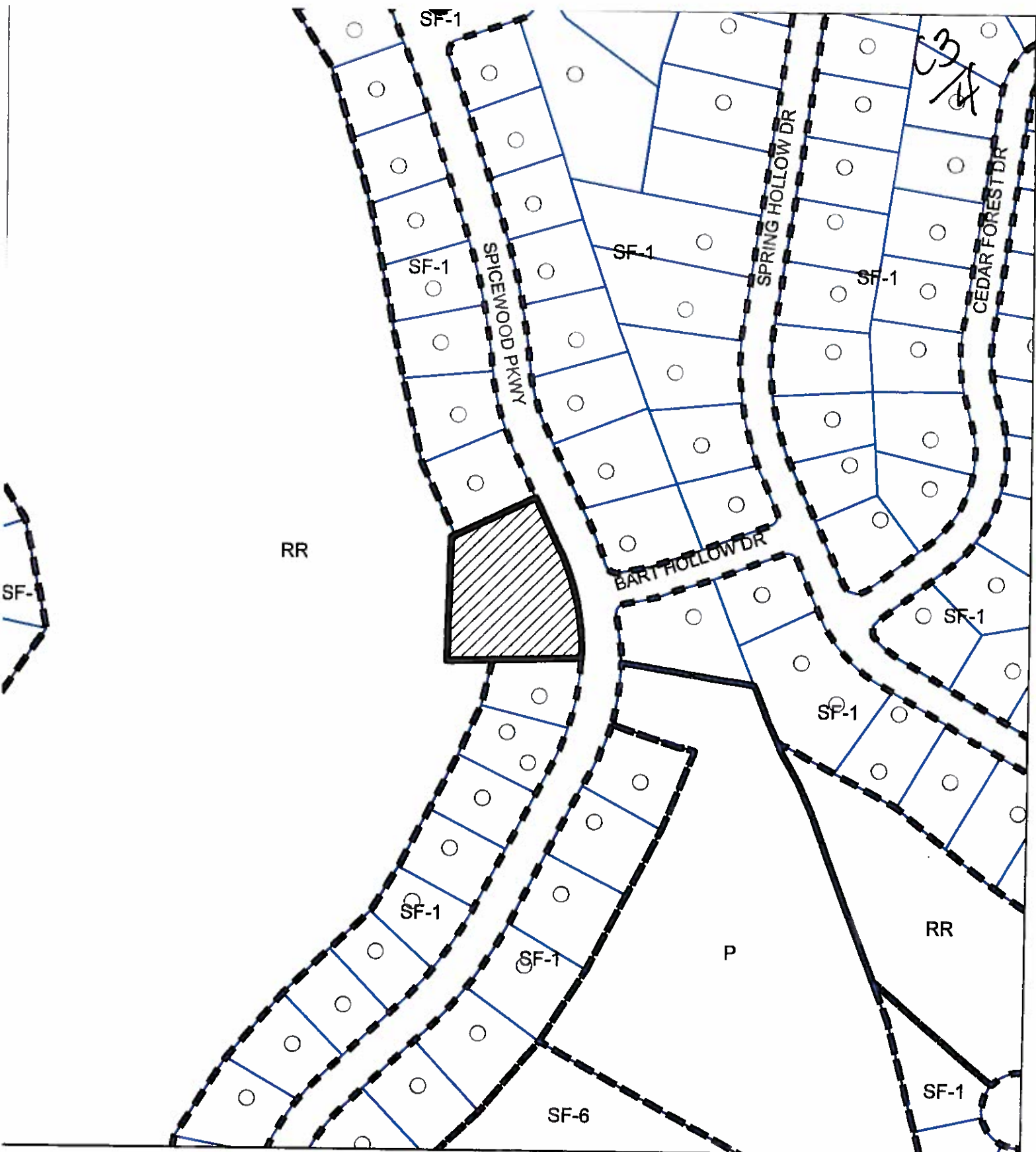
2<sup>nd</sup>




3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057,  
[sherri.sirwaitis@ci.austin.tx.us](mailto:sherri.sirwaitis@ci.austin.tx.us)



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

**ZONING**  
**ZONING CASE#: C14-2013-0097**

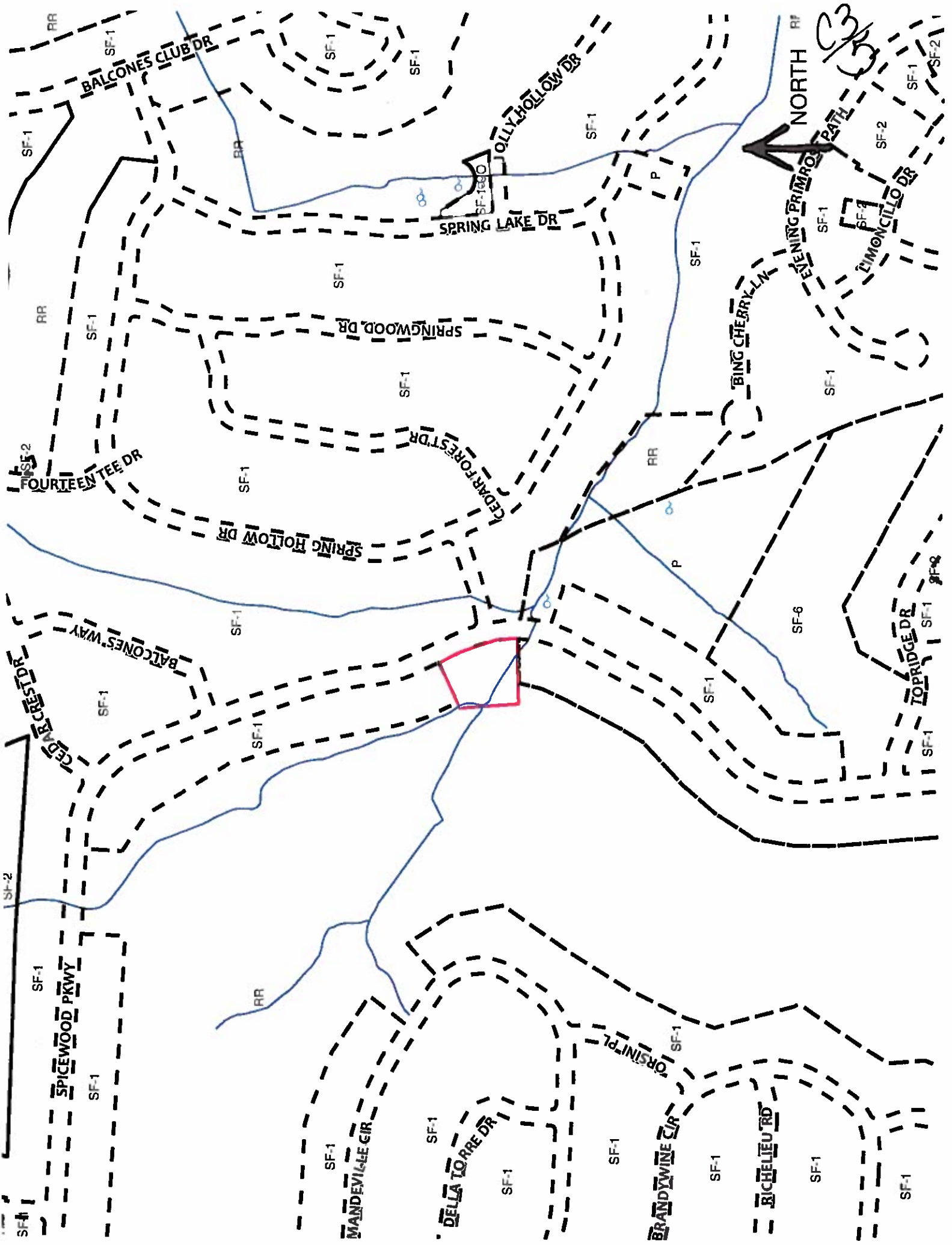


1" = 200'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.









BALCONES CLUB DR

JOLLY HOLLOW DR

SPRING LAKE DR

SPRINGWOOD DR

BING CHERRY LN

EVENING PRIMROSE PATH

LIMONCILLO DR

FOURTEENTH DR

CEDAR REST DR

SPRING HOLLOW DR

BALCONES WAY

SPRINGWOOD PKWY

TOPRIDGE DR

MANDEVILLE CIR

DELLA TORRE DR

BRANDWINE CIR

RICHELIEU RD

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## STAFF RECOMMENDATION

The staff's recommendation is to grant SF-1, Single Family-Large Lot District, zoning.

## BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

Single-family residence large lot (SF-1) district is the designation for a low density single-family residential use on a lot that is a minimum of 10,000 square feet. An SF-1 district designation may be applied to a use on land with sloping terrain or environmental limitations that preclude standard lot size or to a use in an existing residential development on a lot that is 10,000 square feet or more.

2. *The proposed zoning should promote consistency and orderly planning.*

The proposed zoning promotes consistency and orderly planning because there are existing single family residential uses to the north, south and east of this site. The property in question is located adjacent to SF-1 zoning and fronts onto a local collector street, Spicewood Parkway.

## EXISTING CONDITIONS

### Site Characteristics

The site under consideration is currently undeveloped. There are single-family residential homes developed to the north, east and south. The property to the west is part of the golf course for Balcones Country Club.

### Comprehensive Planning

RR to SF-1 (Single Family Large Lot)

This zoning case is located on a .98 acre vacant lot on the west side of Spicewood Parkway and is not located within the boundaries of a neighborhood planning area. Surrounding land uses includes a golf course to the west, and single family houses to the north, south and east. The developer wants to build a single family house on the property.

### **Imagine Austin**

The site is located over the Edwards Aquifer Recharge Zone, as identified on the Imagine Austin's Environmental Resources Map, found in the Image Austin Comprehensive Plan (IACP). An aquifer contributing zone is an area where runoff from precipitation flows to the recharge zone of an aquifer. Streams in the contributing zone flow downstream into the recharge zone and "contribute" water to the aquifer.

The overall goal of the IACP is to achieve 'complete communities' across Austin, where housing, services, retail, jobs, entertainment, health care, schools, parks, and other daily needs are within a convenient walk or bicycle ride of one another. Page 107 of the IACP states, "While most new development will be absorbed by centers and corridors, development will happen in other areas within the city limits to serve neighborhood needs and create complete communities. Infill development can occur as redevelopment of obsolete office, retail, or residential sites or as new

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*development on vacant land within largely developed areas. New commercial, office, larger apartments, and institutional uses such as schools and churches, may also be located in areas outside of centers and corridors. The design of new development should be sensitive to and complement its context. The Growth Concept Map not only guides where Austin may accommodate new residents and jobs but also reflects the community intent to direct growth away from environmentally sensitive areas including, but not limited to, the recharge and contributing zones of the Barton Springs segment of the Edwards Aquifer, and to protect the character of neighborhoods by directing growth to areas identified by small area plans."*

The following Imagine Austin policies are taken from Chapter 4 of the IACP, which specifically discusses the promotion of a variety of housing types and building over environmentally sensitive lands:

- **LUT P22** Protect Austin's natural resources and environmental systems by limiting land use and transportation development in sensitive environmental areas and preserving areas of open space.
- **CE P2.** Conserve Austin's natural resources systems by limiting development in sensitive environmental areas, including the Edwards Aquifer, its contributing and recharge zones, and endangered species habitat.
- **H P1.** Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin's diverse population.

Based on the property being located within the boundaries of an existing residential subdivisions, and the Imagine Austin policies referenced above that supports a variety of housing types throughout Austin, staff believes that the proposed residential use is consistent with the Imagine Austin Comprehensive Plan as long as environmental ordinances are enforced over this environmentally sensitive area.

### **Environmental**

The site is located over the Edwards Aquifer Recharge Zone. The site is in the Bull Creek Watershed of the Colorado River Basin, and is classified as a Water Supply Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is a flood plain within close proximity of the project location. Based upon the close proximity of the flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone shall be limited to 18%.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this



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time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code requirements.

### **Impervious Cover**

The maximum impervious cover allowed by the SF-1 zoning district would be 40%. However, because the Watershed impervious cover is more restrictive than the GR zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance.

Under the current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Note: The most restrictive impervious cover limit applies.

### **Site Plan**

No site plan required.

### **Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

### **Transportation**

No additional right-of-way is needed at this time.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

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Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Spicewood Parkway	60	35	Collector	No	No	No

**Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Attachment A a

WARRANTY DEED

FILM CODE

00005592030

THE STATE OF TEXAS

COUNTY OF TRAVIS

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KNOW ALL MEN BY THESE PRESENTS:

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That ANN COOK McCULLICK ("Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid by BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with Grantor's interest in all improvements thereon, and all rights, titles and interests appurtenant thereto:

1. Spicewood Golf Course:

TRACT I: 61.71 acres,  
TRACT II: 83.55 acres, save and except  
TRACT III: .679 and .055 acres, and

Balcones Golf Course:

TRACT IV: 60.31 acres, save and except .08 acres,  
TRACT V: 15.61 acres,  
TRACT VI: 8.98 acres,  
TRACT VII: 6.33 acres,  
TRACT VIII: 5.57 acres, save and except .016 acres,  
TRACT IX: 6.48 acres,  
TRACT X: 13.70 acres, save and except  
TRACT XI: .298 acres, and save and except  
TRACT XII: .552 acres, and save and except  
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof (collectively referred to hereinafter as the "Golf Course Tracts").

2. That certain 7.12 acre tract of real property situated in the County of Travis, State of Texas, as more particularly described on Exhibit "B" attached hereto and incorporated herein by reference;

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12960 0664



Lot 48, Balcones Village Subdivision, situated in the County of Travis, State of Texas; and

Lots 41-46, Block F, Section 10, Balcones Village Subdivision, situated in the County of Travis, Texas;

collectively referred to hereinafter as the "Property."

TO HAVE AND TO HOLD the above-described Property and Golf Course Tracts, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to 'WARRANT AND FOREVER DEFEND' all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Taxes for 1997 and all prior years are assumed by Grantee.

#### Reservations and Exceptions

1. The Property and the Golf Course Tracts are subject to all reservations, covenants, conditions, and restrictions of record, including, by way of example and not in limitation, those restrictions set forth in that certain Warranty Deed dated to be effective as of June 19, 1997 entered into by Northwest Travis County Municipal Utility District No. 2, as Grantor, and Ann C. McCullick, as Grantee.

2. The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes with right of enforcement by injunctive relief against breach of this restriction vested in Northwest Travis County Municipal Utility District No. 2, its successors and assigns.

3. The Golf Course Tracts are subject to an easement held by Northwest Travis County Municipal Utility District No. 2, its successors and assigns, and Technology Hydraulics, Inc. for the free, uninterrupted, and perpetual use of the Golf Course Tracts for irrigation disposal of treated effluent, together with a perpetual easement in favor of the same persons to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace, and remove certain irrigation facilities.

4. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Northwest Travis County Municipal Utility District No. 2 is required to convey to the City of Austin a 20-foot easement across the Golf Course Tracts at a location to be determined by Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc. At the time that the City of Austin requests

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such easement, Grantee agrees to convey the easement to the City of Austin.

5. It is expressly understood and agreed by Grantor and Grantee that Grantor has no ownership interest in any of the irrigation facilities located on the Golf Course Tract and such facilities are not included in this conveyance.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS-WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

EXECUTED to be effective the 20th day of June, 1997.

ANN COOK MCCULLICK

Ann Cook McCullick  
Ann Cook McCullick

MCCLUST:CORRETT/77679.2

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REAL PROPERTY RECORDS  
TRANS. COUNTY, TEXAS

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BALCONES COUNTRY CLUB  
MEMBERSHIP ASSOCIATION, INC., a  
Texas non-profit corporation

By: Guy Michael Benson  
Name: Guy Michael Benson  
Title: President

By: Paul Herlong Wilkinson  
Name: Paul Herlong Wilkinson  
Title: Secretary

HAUS:CORBETTY/37579.2

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REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12960 0667



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FILM CODE  
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**WARRANTY DEED**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

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KNOW ALL MEN BY THESE PRESENTS:

**Recitals**

A. That Northwest Travis County Municipal Utility District No. 2, a governmental subdivision of the state of Texas, is a municipal utility district operating under the laws set forth in Chapters 49 and 54 of the Texas Water Code;

B. Section 49.226(b) of the Texas Water Code provides that any property dedicated to or acquired by a municipal utility district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release;

C. J.H. McCullick donated the property described in Exhibit "A" hereto to the Northwest Travis County Municipal Utility District No. 2 pursuant to that certain Warranty Deed recorded at Volume 8593, Page 442 of the real property records of Travis County, Texas.

D. Ann C. McCullick is the wife and sole heir of J.H. McCullick, who is deceased;

E. After careful deliberation, the Board of Directors of Northwest Travis County Municipal Utility District No. 2 has determined that it is necessary and advantageous for Northwest Travis County Municipal Utility District No. 2 to abandon and release the aforementioned property to Ann C. McCullick, as heir and successor to J.H. McCullick pursuant to the authority set forth in Section 49.226(b) of the Texas Water Code and in accordance with the terms and conditions set forth in this Warranty Deed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Northwest Travis County Municipal Utility District NO. 2 and Ann C. McCullick hereby agree as follows:

**Conveyance**

That NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, a political subdivision of the State of Texas ("Grantor"), in abandonment and release, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto ANN C. McCULLICK ("Grantee"), heir and successor of J. H. McCullick, those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with all of Grantor's rights, title and interest in

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improvements (including all structures and fixtures located thereon) and all rights, titles and interests appurtenant thereto (such land, improvements and interests are hereinafter referred to as the "Property") to wit:

**Spicewood Golf Course:**

TRACT I: 61.71 acres,  
TRACT II: 83.55 acres, save and except  
TRACT III: .679 and .055 acres, and

**Balcones Golf Course:**

TRACT IV: 60.31 acres, save and except .08 acres,  
TRACT V: 15.61 acres,  
TRACT VI: 8.98 acres,  
TRACT VII: 6.33 acres,  
TRACT VIII: 5.57 acres, save and except .016 acres,  
TRACT IX: 6.48 acres,  
TRACT X: 13.70 acres, save and except  
TRACT XI: .298 acres, and save and except  
TRACT XII: .552 acres, and save and except  
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above-described Property, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

It is expressly understood and agreed by Grantor and Grantee that taxes for 1997 and all prior years are hereby assumed by Grantee. It is further understood and agreed that this Warranty Deed and the abandonment and release of the Property to Grantee shall not impact or relieve Grantor or other parties of their respective obligations under the following agreements: (1) that certain "Irrigation and Maintenance Agreement," dated February 21, 1991, entered into by Balcones Country Club Membership Association, Inc. and Northwest Travis County Municipal Utility District No. 2; and (2) that certain "Wastewater Services and Development Agreement," dated July 1, 1983, entered into by Spicewood Development Corporation, Northwest Travis County Municipal Utility District No. 2, Homer D. Reed, and Luther E. Smith.

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**Reservations and Exceptions**

1. The Property shall be used in perpetuity as a golf course with the right of enforcement by injunctive relief against breach of this restriction vested in the Northwest Travis County Municipal Utility District No. 2, its successors and assigns. This covenant shall run with the land.
2. Grantor hereby excludes from the conveyance hereunder and reserves for Grantor and Grantor's successors and assigns and for Technology Hydraulics, Inc., an easement for the free, uninterrupted, and perpetual use of the Property for irrigation disposal of treated wastewater effluent, together with a perpetual easement to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace and remove all irrigation facilities existing as of the date of this conveyance.
3. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Grantor is required to convey to the City of Austin a 20-foot easement across the Property at a location to be determined by Grantor and Technology Hydraulics, Inc. At the time that the City of Austin requests such easement from Grantor, Grantee agrees to convey the easement to the City of Austin.
4. Grantor hereby excludes from the conveyance hereunder all irrigation facilities and equipment located on the Golf Course Tracts.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS--WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.



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NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT IT IS EVER DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT THIS CONVEYANCE IS NOT VALID FOR ANY REASON, THEN NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AGREES THAT IT SHALL OFFER THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO FOR SALE TO ANN C. MCCULLICK, OR ANY SUCCESSOR OR ASSIGN THEREOF THAT MAY BECOME THE OWNER OF THE PROPERTY, AT ITS FAIR MARKET VALUE. THIS OBLIGATION SHALL BE BINDING UPON NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AND ITS SUCCESSORS AND ASSIGNS.

EXECUTED to be effective as of the 19th day of June, 1997.

NORTHWEST TRAVIS COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 2

By:

Gary Potts, President

John R. Patten  
Secretary

ANN C. MCCULLICK

By:

Ann C. McCullick

P E T I T I O N

Date: August 28, 2013

File Number: C14-2013-0097

Address of Rezoning Request: 11300 Spicewood Parkway

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To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than RR – Golf Course.

It has been our understanding that the Golf Course properties were to be used for golf or recreational purposes in perpetuity. The land in issue is a part of the Golf Course properties. We believe the applicant in this case intends to develop this land, perhaps constructing a homestead (although a bed and breakfast appears to be a permitted use under the requested SF-1 zoning), which is in direct contravention of our understanding and the decades-old deed restrictions which are currently in place covering and protecting the Golf Course properties from this sort of development.

Rezoning this property to SF-1 is contradictory to the deed restrictions as it allows residential development, which is neither golf nor recreational use. Allowing the rezoning will open the buyer up to potential litigation filed by the beneficiaries of these deed restrictions (current homeowners in the area) down the road. Allowing the re-zoning could be misleading to the buyers and others.

Prior to its abolition by the City of Austin, the Northwest Travis County MUD #2 (MUD) transferred the Golf Course properties, including the land in issue, with a restriction that the transferred properties would be used as a golf course, a restriction it stated would run with the land. The properties were then deeded to the Balcones Country Club Membership Association, with the restriction that the properties be used for golf and recreational purposes.

The City of Austin, per Ordinance dated December 4, 1997, abolished and assumed the obligations of the MUD. The City has the ability, and perhaps the obligation, to enforce the deed restriction, pursuant to its takeover of the MUD. Allowing re-zoning implies that the land can be used for other purposes, which is inconsistent with the restriction the City now holds the right to enforce.

Allowing re-zoning of the land in issue, although it is a small parcel in and of itself, could open the door to broader development of the Golf Course properties, which will be detrimental to the current homeowners in the neighborhood. It is especially troubling to those who have maintained homesteads adjacent to the Golf Course properties, with the assumption that the deed restrictions in place would protect the Golf Course properties from development and protect the investment made in this community.

C3/20

The Austin Regional Master plan approved by the City at the time of annexation of MUD #2 accepted the foundational covenants and restrictions to prohibit development of this property for any use other than greenway (i.e. golf course) and drainage. Modification of the zoning of this property is thus inconsistent with the community master plan. Should the planning and zoning commission believe that this rezoning is appropriate for its proposed use, it must first modify the master plan to be consistent with their findings. There are important procedural requirements for notification to the surrounding neighborhood for modification of the original covenants and restrictions as there are for modification of the city master plan. These procedural requirements, including notification of the affected parties, and notification of the Texas Commission on Environmental Quality for development actions that may adversely impact stream water flow, stream water quality and significantly impact aquifer recharge have not been adhered to and must be complied with prior to any consideration for rezoning by the Planning and Zoning Commission or the City Council.

Clearing of the lot will destroy significant mature trees that are regulated under the City's tree preservation requirements. The filling of the lot will require the removal of the trees and will restrict the drainage way as discussed above, making it impossible for the drainage way to carry the design flood flow requirements. The drainage way now is limited in its ability to carry design flood flows of any significant storm events.

Removal of the existing vegetation and channel roughness will reduce the ability of the natural stream channel to provide water quality improvement through the retention of sediment and the absorption of environmental contaminants and nutrients that are present in storm water runoff from the surrounding streets and fertilized lawns. This is an important and critical function for protecting water quality within the Bull Creek Watershed. The Bull Creek Watershed is an important waterway for the City of Austin, and natural grassed and vegetated stream channels provide an efficient method of water quality improvement supported by the Texas Commission on Environmental Quality (TCEQ). Further, the Bull Creek Watershed is an important recharge area for the underlying aquifers, removal of natural waterways increases peak storm water flows, decreases infiltration and recharge to the underlying aquifers and adversely impacts water quality both in the surface streams and in the groundwater aquifers.

Preserving the vitality and critical environmental features in Bull Creek Watershed in this neighborhood is critical. This area is the headwaters of the Bull Creek Watershed, which is the only Edwards Aquifer spring fed creek that supplies part of our drinking water. Rezoning and building on these properties will have an adverse environmental impact to the immediate area and to Bull Creek Watershed. These tracts were specifically and conscientiously preserved for drainage, spring protection, wildlife habitat, and wildlife passage.

These tracts and properties are the habitat for numerous local flora and fauna, especially the Hill Country Rock Squirrels, and the breeding ground for a wide variety of protected birds such as the Red Tail Hawk, the Screech Owl, Horned Owl and possibly many others. There is an abundance of wildlife (deer, red fox, black squirrels, raccoons, skunks, armadillos, opossum, etc.) which breed and pass through these areas. The disturbance of these areas will force these animals out of their habitat and into the neighborhood. Also, the development of the tracts will



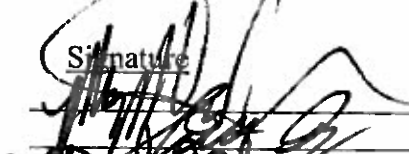

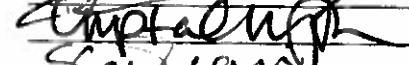
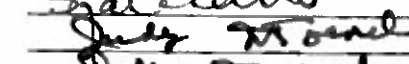
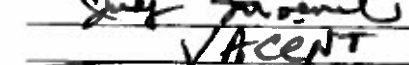
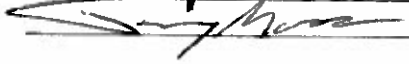
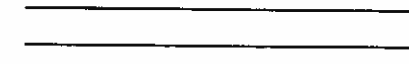
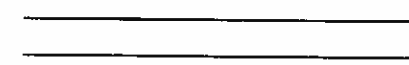
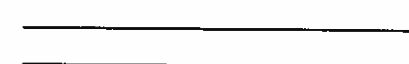
C3/21

close and/or inhibit the passages set aside for these animals and require them to pass through the existing homestead properties. With this will also come the coyote predators which will further endanger the pets, children, and homeowners in this community.

Because it is a defined stream channel, it also may be a habitat for protected species including The Barton Springs salamander, the Austin Blind salamander and/or the Jollyville Plateau salamander. No environmental surveys or studies have been done on this lot, and any rezoning or alternate use considerations must first establish that no unique, protected or sensitive ecosystem exists under its present use.

In summary, these tracts were set aside as mandated and agreed upon by the City of Austin when Balcones Country Club, Balcones Village and Spicewood Development Corp. presented the original master development plans to the City of Austin. The Deed Restrictions clearly indicate that these tracts can only be used for recreational and golf course uses (drainage and greenbelt). There is no condition imaginable where anything other than RR zoning is appropriate.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	MARC M. SWANNER	11408 Spicewood Pkwy
	SCOTT HOYT	11406 Spicewood Pkwy
	MIKE DENNY	11506 J Spicewood Pkwy
	CRYSTAL PREECE	11206 Spicewood Pkwy
	SONIA GAMMARI	11204 Spicewood Pkwy
	JUDY MOENCH	11302 Spicewood Pkwy
	JUDY MOENCH	11305 Spicewood Pkwy
	EMPTY	11209 Spicewood Pkwy
	JEREMY MOSS	11304 " "
		11303 Spicewood Pkwy

Date: Aug 29, 2013

Contact Name: Crystal Preece  
Phone Number: 512-496-6374

C3/22

C3  
a3

## PETITION

Case Number: **C14-2013-0097**

Date: 9/4/2013

Total Square Footage of Buffer:	289813.96
Percentage of Square Footage Owned by Petitioners Within Buffer:	33.45%



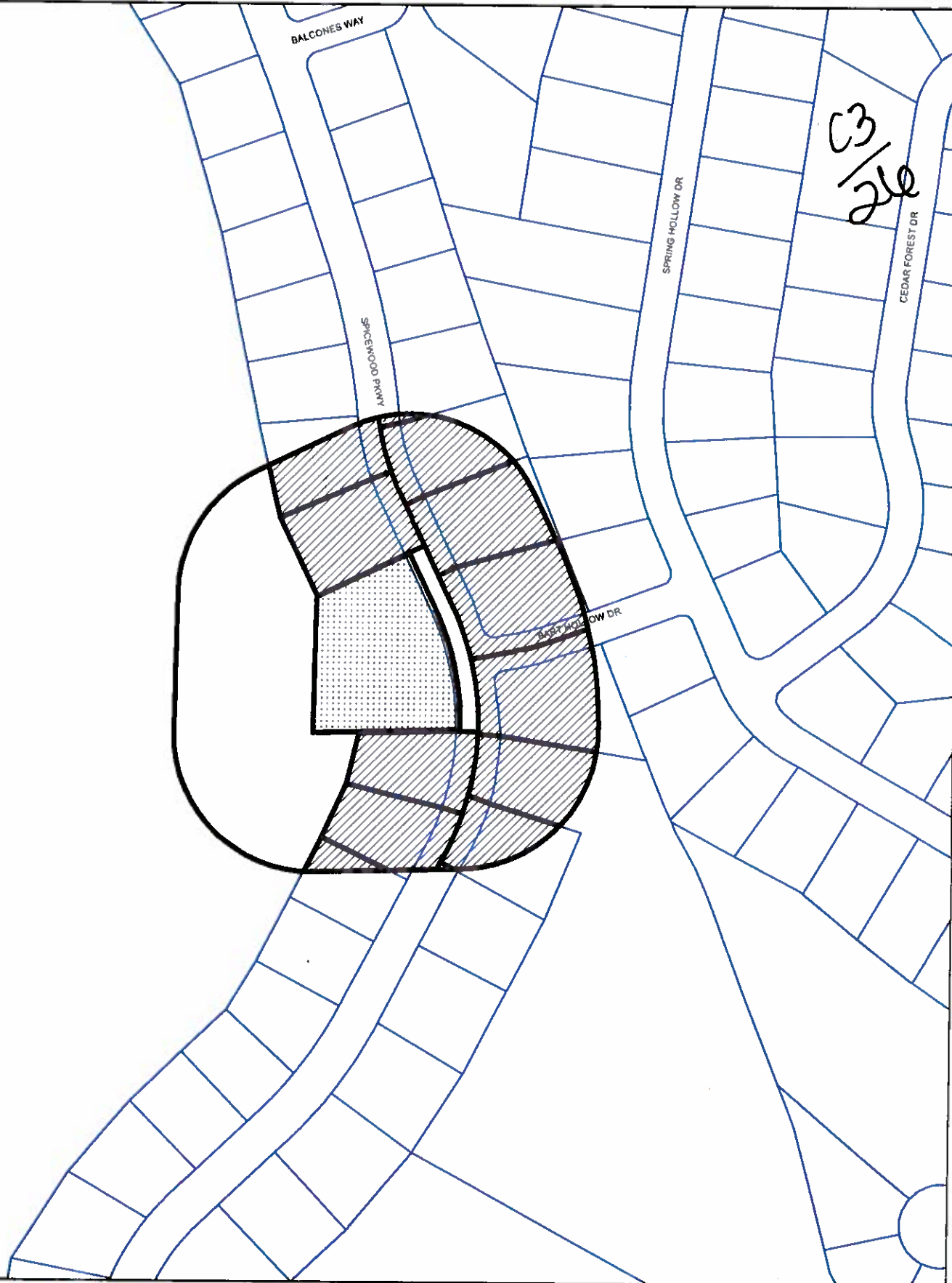
Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

C3  
24

#	TCAD ID	Address	Owner	Signature	Petition Area	Percent
1	0168150102	11204 SPICEWOOD PKWY 78750	BLACKFORD STEVEN L	no	16617.60	0.00%
2	0168130128	11207 SPICEWOOD PKWY	CITY OF AUSTIN ATTN: REAL ESTATE SERVICES DIVISION	no	16703.16	0.00%
3	0168130124	SPICEWOOD PKWY	CITY OF AUSTIN ATTN: REAL ESTATE SERVICES DIVISION	no	10124.05	0.00%
4	0170150612	11302 SPICEWOOD PKWY 78750	GADKARI RAHUL A & SONIA R	yes	20738.01	7.16%
5	0168150101	11206 SPICEWOOD PKWY 78750	LE PHAT T & TAM T DINH	yes	16825.95	5.81%
6	0170150611	11304 SPICEWOOD PKWY 78750	MELISA CLEMENT DESIGNS LLC	no	13397.00	0.00%
7	0170150304	11305 SPICEWOOD PKWY 78750	MOENCH JERRY D & JUDITH A	yes	14567.11	5.03%
8	0168130125	11209 SPICEWOOD PKWY	MOENCH JUDITH & JERRY	yes	24085.34	8.31%
9	0170130917	11303 SPICEWOOD PKWY AUSTIN 78750	MOSS JEREMY B	yes	20738.67	7.16%
10	0168150122	11202 SPICEWOOD PKWY AUSTIN 78750	ROON DAVID H & LAURIE S	no	3037.04	0.00%
11	0170130916	11301 SPICEWOOD PKWY	SANDLIN ANN MARIE	no	24138.72	0.00%
12	0170150305	11401 SPICEWOOD PKWY AUSTIN 78750	TOME ERIC & JENNIFER	no	714.90	0.00%
13						0.00%
14						0.00%
15						0.00%
16						0.00%
17						0.00%
18						0.00%
19						0.00%
20						0.00%
21						0.00%
22						0.00%

C3/25

23						0.00%
24						0.00%
						<b>Total %</b>
						<b>33.45%</b>



C3 / 210



BUFFER

PROPERTY\_OWNER

SUBJECT\_TRACT

## PETITION

CASE#: C14-2013-0097



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

" = 200'



**Sirwaitis, Sherri**

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**Subject:** FW: ZAP Cases September 3, 2013

C3/27

-----Original Message-----

From: Skip Cameron [REDACTED]

Sent: Tuesday, August 27, 2013 5:30 PM

To: Meeker, Jason - BC; Seeger, Patricia - BC; McDaniel, Rahm - BC; Compton, Sean - BC; Banks, Cynthia - BC; Rojas, Gabriel - BC; Baker, Betty - BC; Hoelter, Nikki; Crow, Ross; Ferri, Jennifer

Cc: Li, Victoria J; Guernsey, Greg

Subject: ZAP Cases September 3, 2013

Regarding these 3 cases:

2013-080209 ZC C14-2013-0096

The applicant is proposing to rezone property from RR to SF-1.

11512 Spicewood Parkway

2013-080220 ZC C14-2013-0097

The applicant is proposing to rezone property from RR to SF-1.

11300 Spicewood Parkway

2013-080191 ZC C14-2013-0095

The applicant is proposing to rezone property from RR and I-SF-2 to SF-1.

9405 Fourteen Tee Drive

Preserving the vitality of critical environmental features in Bull Creek watershed neighborhoods is critical. Bull Creek is the only Edwards Aquifer spring fed creek that supplies part of our drinking water.

There will be adverse environmental impact to the immediate area and to Bull Creek Watershed.

These tracts were specifically and conscientiously preserved for drainage, spring protection, wildlife habitat and wildlife passage.

These tracts were set aside when the Balcones Country Club was developed, and Deed Restrictions indicate that these tracts can only be used for recreational and golf course uses only.

There is no condition imaginable where anything other than RR zoning is appropriate.

Please deny the zoning change on these 3 cases and reaffirm the long standing and correct zoning of RR.

Thank you,

Skip Cameron, President

Bull Creek Foundation

8711 Bluegrass Dr.

Austin, TX 78759

(512) 794-0531

**Sirwaitis, Sherri**

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**From:** Dave Roon [REDACTED]  
**Sent:** Wednesday, August 28, 2013 4:59 PM  
**To:** Sirwaitis, Sherri  
**Subject:** Case Number C14-2013-0097

C3/28

August 28, 2013

Sherri Sirwaitis

Planning and Development Dept

City of Austin, Texas

Dear Ms. Sirwaitis,

This correspondence is to show support for Case Number C14-2013-0097 regarding a proposed zoning change for a property at 11300 Spicewood Parkway, Austin, TX 78750.

We live at 11202 Spicewood Parkway, Austin, TX 78750. We are members of the Club and the Home Owners Association in our community.

We understand the ownership of the land in question and completely support the efforts of Balcones Country Club Membership Association in their attempts to keep the Country Club a viable entity.

Please feel free to contact us with any questions.

David and Laurie Roon

512 331-9812



C3/29

August 29, 2013

Sherri Sirwaitis  
Planning & Development Dept  
City of Austin, Texas

Dear Ms. Sirwaitis,

This correspondence is being sent in connection with the following rezoning cases in the Balcones/Spicewood neighborhood:

Number C14-2013-0097 for property at 11300 Spicewood Parkway, Austin, TX 78750  
Number C14-2013-0096 for property at 11512 Spicewood Parkway, Austin, TX 78750  
Number C14-2013-0098 for property at 9900 Mandeville Circle, Austin, TX 78750  
Number C14-2013-0095 for property at 9405 Fourteen Tee Drive, Austin, TX 78750

Balcones Club Management LP (Balcones Club) has entered into a 99 year lease with Balcones Country Club Membership Association (BCCMA), the owner of Balcones Country Club and the parcels subject to the action above. Balcones Club is responsible for the successful operations of the Country Club.

We agree to the removal of the parcels identified above from our lease upon their successful sale. The parcel sales will not impact operations at the Country Club and funds generated from these sales will be reinvested into the facility of the Country Club, which will in turn have a positive impact on the community.

Regards,

Ken Story  
Partner

Balcones Club Management LP  
an affiliate of Arnold Palmer Golf Management

5430 LBJ Freeway  
Three Lincoln Centre  
Suite 1400  
Dallas, Texas 75240  
T 972 419 1400  
F 972 419 1450  
[www.centurygolf.com](http://www.centurygolf.com)  
[www.palmergolf.com](http://www.palmergolf.com)

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0097

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

PHAT LE

Your Name (please print)

11206 SPIGWOOD PKWY

Your address(es) affected by this application

Phil

Signature

9/6/13

Date

Daytime Telephone: 512-659-5751

Comments: MY HOUSE WAS DESIGNED WITH  
WINDOWS OPEN TO THE GOLF COURSE  
ZONE WHICH WAS TOLD THAT NO HOUSE  
CAN BUILD ON THIS LOT. I DO NOT  
LIKE NEIGHBOR OF HOUSE BUILD TO VIOLATE  
THE PRIVACY BY LOOKING OF CAR LIGHTS STRIKE  
THROUGH MY WINDOWS AT NIGHT.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

33/30

September 25, 2013  
11604 Jamieson Drive  
Austin, Texas 78750-2544

(3  
31

Austin City Council  
301 W. Second St.  
Austin, Texas 78701

RE: Case Numbers C14-2013-0095, C14-2013-0096, C14-2013-0097, C14-2013-0098

Dear Council Members:

I would like to make a few comments and provide some background information regarding the referenced case numbers.

Just for clarification, my name is Tom Manning, and I have lived in the Balcones Village/Spicewood area for a little over 30 years. I was President of the Northwest Travis Municipal Utility District (MUD) #2 for about 9 years, and was in that office at the time that the developer of the area, who also owned the golf course property as well as the country club facilities, divested themselves of the property. I, along with Jack Firth, representing the Balcones Country Club, and Jim McCullick, representing Spicewood Development Corporation, were the ones that negotiated, agreed to, and signed the paperwork that transferred ownership of the golf course property to the MUD, and the ownership of the country club facilities (buildings, pools, tennis courts, etc.) to BCC.

When the land was initially platted for the various sections, and the 2 golf courses, there was property that was not platted, but neither was it a part of the playable golf courses. This property was retained by the developer. Some of this land was not usable as lots because back then, we did not have city sewer, and the homes needed drainage fields, to accommodate their individual cesspools, which could not be built on the property; some of the land was left open for drainage reasons, and some of the land was left open, along with the 36 playable holes, to meet requirements from the state to handle the distribution of gray water from the private sewage treatment plant that served the homes in the Spicewood section and the sewage treatment plant owned by the MUD. All of the property that was not platted was lumped together and title for that property was transferred to the MUD.

Back when the transfer happened in the early 90's, the area was not in the city of Austin, but annexation was anticipated. When we drafted the documents to cover the transfer, we wanted to make sure that the MUD had adequate surface ground area to meet the state requirements for the gray water distribution, and we also wanted to protect the golf course property for BCC, because with the annexation, the city of Austin would obtain ownership of all of the MUD facilities and property, and could choose to stop using the sewage treatment facilities and MUD property for gray water distribution, and decide to make some other use of the property. For that reason, a clause was included that tied the use of the land to serve as both gray water distribution and golf course recreational activity.

Since that time, a number of things have happened:

1) The city of Austin did annex the entire area, but prior to the annexation, the MUD was able to transfer ownership of the property that it had to BCC, so protecting the use of the property as a golf course for BCC is no longer an issue. BCC is in the best position to determine the need and what to do with the property.

2) The city of Austin has now provided sewage service to the entire area, so some of the property that previously could not be used as lots because of drain field issues, can now be built on.

3) The city of Austin has taken over operation of both the private sewage system and the MUD system, and as anticipated many years ago, has chosen to no longer use the golf course for distribution of the gray water. As a result, the need to protect surface area to use for that purpose is gone.

C3/32

Keeping BCC a viable entity is important to keeping our neighborhood an attractive place to live. The BCC Board would like to make some improvements to the BCC facilities, and have decided that they can raise funds to do this by selling off some property that is not needed. Some concerns have been raised regarding the protection clauses associated with the deed.

Provided that the primary focus is consistent with the Intent of the protection clauses of retaining the 36 holes of golf, tennis, swimming, and clubhouse facilities, disposition of unneeded property by platting and selling lots with deed restrictions matching the ones that currently apply to the neighborhood should not be an issue. Our neighborhood is one of single family dwellings, and conversion of property to single family homes is the most desirable use of this unneeded property. All of this property needs to be re-zoned, and if there are issues such as size or drainage associated with individual lots, that should be sorted out in the zoning process.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Thomas W. Manning', with a stylized, flowing script.

Thomas W. Manning